

wheat production areas by desert, mountains, or other nonagricultural terrain as determined by an inspector, based on survey results.

Farm tools. An instrument worked or used by hand, e.g., hoes, rakes, shovels, and axes.

Grain storage facility. That part of a grain handling operation or unit or a grain handling operation, consisting of structures, conveyances, and equipment that receive, unload, and store, grain, and that is able to operate as an independent unit from other units of the grain handling operation. A grain handling operation may be one grain storage facility or may be comprised of many grain storage facilities on a single premises.

Infestation (infected). The presence of Karnal bunt, or any stage of development of the fungus *Tilletia indica* (Mitra) Mundkur, or the existence of circumstances that make it reasonable to believe that Karnal bunt is present.

Inspector. An APHIS employee or designated cooperator/collaborator authorized by the Administrator to enforce the provisions of this subpart.

Karnal bunt. A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

Limited permit. A document in which an inspector affirms that a specified regulated article not eligible for a certificate is eligible for movement only to a specified destination and in accordance with conditions specified on the permit.

Mechanized cultivating equipment and mechanized harvesting equipment. Mechanized equipment used for soil tillage, including tillage attachments for farm tractors—e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes—e.g., combines, cotton harvesters, and hay balers.

Milling products and byproducts. Products and byproducts resulting from processing wheat, durum wheat, or triticale, including animal feed, waste and debris.

Movement (moved). The act of shipping, transporting, delivering, or receiving for movement, or otherwise aiding, abetting, inducing or causing to be moved.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Soil. The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material.

Soil-moving equipment. Equipment used for moving or transporting soil, including, but not limited to, bulldozers, dump trucks, or road scrapers.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 23624, May 1, 1997; 62 FR 24751, May 6, 1997; 63 FR 31599, June 10, 1998; 64 FR 23752, May 4, 1999]

§ 301.89-2 Regulated articles.

The following are regulated articles:

- (a) Conveyances, including trucks, railroad cars, and other containers used to move wheat, durum wheat, or triticale;
- (b) Grain elevators/equipment/structures used for storing and handling wheat, durum wheat, and triticale;
- (c) Milling products or byproducts, except flour;
- (d) Plants, or plant parts, including grain, seed, or straw of all varieties of the following species:

Wheat: *Triticum aestivum*;

Durum wheat: *Triticum durum*; and

Triticale: *Triticum aestivum*×*Secale cereale*;

- (e) *Tilletia indica* (Mitra) Mundkur;
- (f) Root crops with soil;
- (g) Soil from areas where field crops are produced;
- (h) Manure from animals that have fed on untreated or raw wheat, durum wheat, or triticale;
- (i) Mechanized harvesting equipment used in the production of wheat, durum wheat, and triticale that test positive from Karnal bunt;
- (j) Seed conditioning equipment that has been used in the production of wheat, durum wheat, and triticale;
- (k) Any other product, article or means of conveyance when:
 - (1) An inspector determines that it presents a risk of spreading Karnal bunt due to its proximity to an infestation of Karnal bunt; and

(2) The person in possession of the product, article, or means of conveyance has been notified that it is regulated under this subpart.

[61 FR 52207, Oct. 4, 1996, as amended at 63 FR 50751, Sept. 23, 1998; 65 FR 50596, Aug. 21, 2000]

§ 301.89-3 Regulated areas.

(a) The Administrator will regulate each State or each portion of a State that is infected.

(b) Less than an entire State will be listed as a regulated area only if the Administrator:

(1)(i) Determines that the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.89-2 that are equivalent to the movement restrictions imposed by this subpart; and

(ii) Determines that designating less than the entire State as a regulated area will prevent the spread of Karnal bunt; or

(2) Exercises his or her extraordinary emergency authority under 7 U.S.C. 150dd.

(c) The Administrator may include noninfected acreage within a regulated area due to its proximity to an infestation or inseparability from the infected locality for regulatory purposes, as determined by:

(1) Projections of the spread of Karnal bunt along the periphery of the infestation;

(2) The availability of natural habitats and host materials within the noninfected acreage that are suitable for establishment and survival of Karnal bunt; and

(3) The necessity of including uninfected acreage within the regulated area in order to establish readily identifiable boundaries.

(d) The Administrator or an inspector may temporarily designate any nonregulated area as a regulated area in accordance with the criteria specified in paragraphs (a), (b), and (c) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonregulated area, or, in the case of publicly owned land, to the person responsible for the management of the nonregulated area. Thereafter, the movement of any regulated article from an area temporarily designated as

a regulated area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated regulated areas in paragraph (f) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(e) The Administrator will classify a field or area as a regulated area when:

(1) It is a field planted with seed from a lot found to contain a bunted wheat kernel; or

(2) It is a distinct definable area that contains at least one field that was found during survey to contain a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field found during survey to contain a bunted kernel); or

(3) It is a distinct definable area that contains at least one field that was found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field that has been associated with grain at a handling facility containing a bunted kernel).

(f) The following areas or fields are designated as regulated areas (maps of the regulated areas may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 134, Riverdale, MD 20737-1236):

ARIZONA

La Paz County. (1) Beginning at the southeast corner of sec. 33, T. 5 N., R. 21 W.; then west to the Colorado River; then north along the Colorado River to the west edge of sec. 26, T. 6 N., R. 22 W.; then north to the northwest corner of sec. 26, T. 6 N., R. 22 W.; then east to the northeast corner of sec. 27, T. 6